

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

WILL CO. LTD. a limited liability company
organized under the laws of Japan,

Plaintiff,

vs.

KAM KEUNG FUNG, aka 馮錦強, aka
FUNG KAM KEUNG, aka FUNG KAM-
KEUNG, aka KUENG FUNG, aka KEUNG
KAM FUNG, aka KAM-KEUNG FUNG, aka
KEVIN FUNG, an individual; FELLOW
SHINE GROUP LIMITED, a foreign company,
and DOES 1-20, d/b/a AVGLE.COM,

Defendants.

Case No.: 3:20-cv-05666-RSL

**PARTIES' JOINT RESPONSE TO
ORDER TO SHOW CAUSE**

NOTE ON MOTION CALENDAR:
March 26, 2021

COME NOW, Plaintiff Will Co. Ltd ("Will Co") and Defendants Kam Keung Fung ("Mr. Fung") and Fellow Shine Group, Ltd. ("FSG") (collectively, "Defendants"), by and through their undersigned counsel, file this Joint Response to Order to Show Cause.

Simultaneous with the First Amended Complaint, Plaintiff filed a Motion for Leave For Alternative Service. Dkt. No. 9. Leave was granted on November 16, 2020. Dkt No. 13. Plaintiff filed for clerk issue of summon, issued on November 18, 2020. Dkt. No. 19. Defendants were served with the summons and First Amended Complaint.

JOINT RESPONSE TO ORDER TO SHOW CAUSE - 1
[NO. 3:20-cv-05666 RSL]

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1 On December 9, 2020, Defense counsel Val Gurvits emailed Plaintiff counsel and
2 informed Plaintiff that Mr. Gurvits, Mr. Fray-Witzer, and Mr. Mann would be filing notices of
3 appearance and a motion to dismiss. Defense counsel Mann filed a notice of appearance on
4 December 23, 2020, followed by pro hac vice applications by Mr. Gurvits and Mr. Fray-
5 Witzer. Dkt. Nos. 20-22. As had been indicated, Defendants filed a motion to dismiss for lack
6 of personal jurisdiction on December 24, 2020. Dkt. No. 23. The noting date for the motion to
7 dismiss was originally January 15, 2021, but then moved to January 29, 2021 and ultimately
8 February 5, 2021 by way of agreement of the parties and leave of Court.

9 Plaintiff timely filed its Opposition to the Motion to Dismiss on January 25, 2021. Dkt.
10 No. 28. Defendants timely filed their Reply on February 5, 2021. Dkt. No 35. The Motion to
11 Dismiss for Lack of Personal Jurisdiction remains pending.

12 On January 8, 2021, the Court issued an Order Regarding Initial Disclosures, Joint
13 Status Report, and Early Discovery. Dkt. No. 26. Therein, the Court set deadline for
14 Fed.R.Civ.P. 26(f) Conference for January 22, 2021, Fed.R.Civ.P. 26(a) Initial Disclosures for
15 January 29, 2021, and the filing of Joint Status Report and Discovery Plan for February 5,
16 2021. The parties missed these deadlines. On March 8, 2021, the Court issued an Order to
17 Show Cause regarding these deadlines. Dkt. No. 36.

18 On March 12, 2021, the parties filed a Joint Motion for Relief of Deadlines and Stay of
19 Civil Proceedings, outlining that the parties had mistakenly overlooked the deadlines while
20 drafting and filing papers specific to Defendants' Motion to Dismiss and requesting a Stay of
21 Civil Proceedings pending decision on the Motion to Dismiss. Dkt. No. 37. On March 15,
22 2021, the Court Granted the Motion for Relief of Deadlines and Stay of Civil Proceedings.
23 Dkt. No. 38.

24 There is no question that the parties missed the deadlines set by the Court in the Order.
25 Dkt. No. 26. Plaintiff was tasked with starting communications to meet the deadlines.
26 Plaintiff's counsel failed to do so. However, such was not because of failure to pay attention to

1 the case. In fact, between the date of issuance of the Order (January 8, 2021) and the deadlines
2 set in the Order, Plaintiff's counsel was diligently responding to Defendant's Motion to
3 Dismiss, which was a legally and factually complex motion. The same can be said for
4 Defendants' counsel, who also missed the deadlines. They were diligently working on their
5 Reply papers, which were due as the deadlines were expiring. During this time, the parties
6 were in contact with each other.

7 Based upon the reasons for the missed deadline and that the Court has granted a Relief
8 of Deadlines and Stay of Proceedings, the parties request the Court to not impose any sanctions
9 for the missed deadlines.

10 DATED this 25th day of March 2021.

11 FREEMAN LAW FIRM, INC.

12 s/ Spencer D. Freeman

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20 /s/Philip Mann

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/s/ Valentin Gurvits

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